

**DECISION  
GRAFTON PLANNING BOARD**

**MODIFICATION OF DEFINITIVE SUBDIVISION PLAN  
“GRAFTON HILL” SUBDIVISION**

**12 Clearview Street, MA  
(Assessor’s Map 47, Lot 48)**

**Westerly Side Grafton LLC (Applicant)**

**Westerly Side Grafton LLC, (Applicant / Owner)**

Decision of the Grafton Planning Board (hereinafter the Board) on the petition of Westerly Side Grafton LLC, 117 Water Street, Milford, MA 01757 (hereinafter the APPLICANT), for Modification of Definitive Subdivision Plan on property located at 12 Clearview Street, Map 47, Lot 48, owned by Westerly Side Grafton LLC (hereinafter the SITE) by deed recorded in the Worcester District Registry of Deeds (WDRD) in Book 43570, Page 163. Said property is located in Residential (R-40) zoning district.

The application for Approval of a Modified Definitive Subdivision Plan was filed with the Planning Board October 7, 2015. Notice of the public hearing and the subject matter thereof was published in the Grafton News on October 21 and October 28, 2015, and posted with the Town Clerk’s Office. Abutters were notified by First Class Mail. The public hearing on the Application was opened on November 9, 2015 and continued on November 23, December 14, and January 11, 2016. During the public hearings, all those wishing to speak to the petition were heard. Following public input the hearing was closed on January 11, 2016.

The following Board members were present throughout the public hearing: Chairman Sargon Hanna, Vice Chairman Michael Scully, Clerk Robert Hassinger, and members Linda Hassinger, David Robbins. It is noted that Chairman Hanna was absent at the November 9, 2015 but remained eligible vote on the DECISION upon submitted of a Mullin Certification prior to the close of the Public Hearing (see EXHIBIT #22).

At the hearing, George Connors of Connorstone Engineering and Attorney Joseph Antonellis represented the Applicant and presented the proposal. The record of the proceedings and submissions upon which this decision is based may be referred to in the Office of the Town Clerk or in the Office of the Planning Board.

**I. PROJECT BACKGROUND**

The Applicant is seeking to modify an Approved (endorsed) subdivision. The approved plan was endorsed by the Grafton Planning Board on July 30, 1953 and recorded with the Worcester District Registry of Deeds on December 10, 1954 (Plan Book 202, Plan 33). The original plan was approved prior to the adoption of the Town’s Subdivision Rules and Regulations. The endorsed plan created a new roadway named Clearview Street which was approved based on roadway design standards of the time. Twenty two (22) lots were created. Of these two have since been built upon: Lot 1 (southern corner of North Street and Clearview Street) and Lot #13 (located seven lots west of North Street on the northern side of Clearview Street). Clearview Street was never constructed but exists as an unpaved gravel way.

The Applicant is seeking to construct the roadway and associated infrastructure based on the existing plan which, according to State law, is considered a valid plan despite the amount of time that has passed since it was endorsed. The Applicant has two options for development:

- 1) Develop the approved roadway and then create the lots through an ANR process. This would eliminate the need to modify the plan as presented in the Application and by-pass review by the Planning Board. The roadway and infrastructure would not be held to the development standards by which new roadways and infrastructure are deemed acceptable by the Town if the presented for acceptance at Town Meeting. During the public hearing the Applicant stated that it was their intention to seek Town Meeting acceptance once the project was complete. In order to achieve this, the Applicant has opted for a modification process through the construct of the current Subdivision Rules and Regulations.
- 2) Proceed with a modification process whereby the roadway design and other design requirements of the Subdivision Rules and Regulations are achieved in the interest of creating a more “compliant” project in the best interests of the public. The intent of this approach is to create a project that could be accepted by Town Meeting. The Board concurs that a more compliant subdivision is in the best interests of the public.

Attorney Joseph Antonellis (for the Applicant) and Town Counsel Ginny Sinkel-Kremer both assessed the law pertaining to the modification of a plan endorsed prior to the adoption of subdivision rules and regulations. It was determined that:

- Clearview Street, as depicted on the original plan, can be legally constructed as approved.
- Standards for roadway construction could be based on the local rules and regulations in effect at the time of the approved plan – a significant difference from today’s standards.
- The Town would be precluded from accepting a roadway and infrastructure that was not built to the current standards set forth in the Subdivision Rules & Regulations.

They reviewed the Board’s duties and responsibilities when considering such aspects as waiver requests and modifications that could be considered as part of the modification process. The Applicant argues that the requested waivers / exceptions are minor in nature and only technical deviations and can be waived by the Planning Board (MGL. c.41 s81R). The Applicant further argues that these are to be considered exceptions and not waivers as there were no subdivision rules and regulations in effect at the time of approval. Modifications to approved plans must be based on those rules and regulations in effect at the time. As there were none, the Applicant argues that the proposed modifications should be granted as exceptions since waivers can’t exist given the context of the original approval as it pertains to State law. (See EXHIBIT #15 and #23)

The Applicant further noted that they are not bound to redesign primary aspects of the approved plan based on the current Subdivision Rules and Regulations such as length of the roadway or intersection off sets as it has already been demonstrated that the roadway can be built without Planning Board oversight. The Applicant seeks the granting of several exceptions with the intent of bringing the design standards of the approved plan into closer compliance with current day standards set forth in the Subdivision Rules & Regulations. The purpose of this effort is to enable the Applicant / Developer to create a project with current infrastructure standards that could be accepted by the Town in the future. Review by Town Counsel affirmed these premises.

It is to be further noted that the Applicant, along with other parties, has in the recent past filed three separate applications for a Major Residential Special Permit & Preliminary Plan Approval for this property along with two abutting properties. Two applications were withdrawn (MRSP 2012-11 and MRSP 2013-2) and one was

denied (MRSP 2014-4) due several waiver requests, such as length of roadway, which were denied. All information pertaining to these cases can be found in the Grafton Planning Department.

## **II. SUBMITTALS**

The following items were submitted to the Board for its consideration of this application:

**EXHIBIT 1.** Unbound application packet submitted by Connorstone Engineering., received October 7, 2015, including the following:

- Application for Approval of a Modified Definitive Plan; dated October 6, 2015; 2 pages.
- Project Narrative; prepared by Connorstone Engineering, Inc.; dated September 30, 2015; 2 pages.
- Plan of House Lots; prepared by W.B. Brown C.E.; dated December 10, 1954; 1 page.
- Certified Abutter’s List: signed by Assessor’s Office Manager; dated August 20, 2015; 1 page.
- Certificate of Good Standing; dated October 7, 2015; 1 page.
- Stormwater Report – Modified Subdivision, Clearview Drive, Grafton, MA; prepared by Connorstone Engineering, Inc.; dated September 30, 2015; 93 pages.
- Plan Set; Modified Definitive Subdivision Plan; Grafton Hill; prepared by Connorstone Engineering; 11” X 17” and 24” x 36”; black and white; dated September 30, 2015; 16 pages; includes the following:
  - Sheet Index – 1 sheet
  - Plan of Land – 4 sheets
  - Existing Conditions Plan – 1 sheet
  - Topographic Plan – 4 sheets
  - Roadway Plan & Profile – 2 sheets
  - Sewer Plan & Profile – 1 sheet
  - Construction Details – 3 sheets
- Plan Set; Modified Definitive Plan; Grafton Hill; prepared by Connorstone Engineering; 24” x 36”; black and white; dated September 30, 2015; 2 pages; includes the following:
  - Existing Drainage Areas
  - Proposed Drainage Areas
- Plan: Modified Definitive Plan – Catch Basin Drainage Areas of Grafton Hill, Grafton, MA; prepared by Connorstone Engineering; 24” x 36”; black and white; dated September 30, 2015; 1 sheet.

**EXHIBIT 2.** Correspondence from the Grafton Fire Department; Re: Grafton Hill / Clearview; received August 11, 2015; 1 page.

- EXHIBIT 3.** Site Visit Report; Graves Engineering Inc.; dated September 15, 2015; received September 18, 2015; 5 pages.
- EXHIBIT 4.** Departmental Comment Form; prepared by Samantha Lubke, Treasurer & Collectors Office; dated and received October 14, 2015; 1 page.
- EXHIBIT 5.** Departmental Comment Form; prepared by Superintendent Jay Cummings, School Department; dated October 14, 2015; received October 15, 2015; 1 page.
- EXHIBIT 6.** Correspondence from Attorney Joseph Antonellis; Re: 12 Clearview Street, Grafton (the “Property”); dated October 15, 2015; received October 19, 2015; 16 pages.
- EXHIBIT 7.** Departmental Comment Form; prepared by Chief Normand Crepeau, Police Department; dated October 27, 2015; received October 28, 2015; 1 page.
- EXHIBIT 8.** Departmental Comment Form with Letter of Correspondence; prepared by Paul Cournoyer, Sewer Department; dated and received October 30, 2015; 3 pages.
- EXHIBIT 9.** Correspondence from Stephen L. Charest, Assistant Chief, Fire Department; Ref: Modified Definitive Plan 2015-6: Grafton Hill Subdivision; dated and received November 2, 2015; 1 page.
- EXHIBIT 10.** Correspondence from Graves Engineering; Grafton Hill – Clearview Street, Modified Definitive Subdivision Plan Review; dated November 5, 2015, received November 9, 2015; 3 pages.
- EXHIBIT 11.** Departmental Comment Form; prepared by Katrina Koshivos, Zoning Board of Appeals; dated November 6, 2015; received November 6, 2015; 1 page.
- EXHIBIT 12.** Email correspondence from Town Counsel Ginny Sinkel-Kremer, RE: Grafton Hill; received November 9, 2015; 3 pages.
- EXHIBIT 13.** Public Meeting Sign In Sheet, November 9, 2015; 1 page.
- EXHIBIT 14.** Written Request for Public Hearing Continuance, signed by Attorney Joseph Antonellis representing the Applicant / Owner, received at the November 9, 2015 public hearing; 1 page.
- EXHIBIT 15.** Memorandum from Town Counsel; RE: Grafton Hill; dated and received November 20, 2015; 2 pages.
- EXHIBIT 16.** Correspondence from Connorstone Engineering, Inc.; Subject: Grafton Hill Modified Subdivision Plan – North Street, Grafton, MA; includes review comments and Stormwater Pollution Prevention Plan; dated November 23, 2015; 13 pages.
- EXHIBIT 17.** Plan Set of Grafton Hill in Grafton, MA; prepared by Connorstone Consulting Civil Engineers and Land Surveyors; 11” X 17”; black and white; dated September 30, 2015; revised through November 23, 2015; received November 23, 2015; includes the following:
- Sheet 1 of 11 .....Existing Conditions Plan
  - Sheet 2 of 11 .....Topographic Plan
  - Sheet 3 of 11 .....Topographic Plan
  - Sheet 4 of 11 .....Topographic Plan
  - Sheet 5 of 11 .....Topographic Plan

- Sheet 6 of 11 .....Roadway Plan & Profile
- Sheet 7 of 11 .....Roadway Plan & Profile
- Sheet 8 of 11 .....Sewer Plan & Profile
- Sheet 9 of 11 .....Construction Details
- Sheet 10 of 11 ....Construction Details
- Sheet 11 of 11 ....Construction Details
- Sheet 1 of 5 .....Locus Plan / Sheet Index
- Sheet 2 of 5 .....Plan of Land
- Sheet 3 of 5 .....Plan of Land
- Sheet 4 of 5 .....Plan of Land
- Sheet 5 of 5 .....Plan of Land

**EXHIBIT 18.** Public Meeting Sign In Sheet, November 23, 2015; 1 page.

**EXHIBIT 19.** Written Request for Public Hearing Continuance, signed by Attorney Joseph Antonellis representing the Applicant / Owner, received at the November 23, 2015 public hearing; 1 page.

**EXHIBIT 20.** Plan Set of Grafton Hill in Grafton, MA; prepared by Connorstone Consulting Civil Engineers and Land Surveyors; 11” X 17” and 24” x 36”; black and white; dated September 30, 2015; revised through November 23, 2015; received November 30, 2015; includes the following:

- Sheet 1 of 11 .....Existing Conditions Plan
- Sheet 2 of 11 .....Topographic Plan
- Sheet 3 of 11 .....Topographic Plan
- Sheet 4 of 11 .....Topographic Plan
- Sheet 5 of 11 .....Topographic Plan
- Sheet 6 of 11 .....Roadway Plan & Profile
- Sheet 7 of 11 .....Roadway Plan & Profile
- Sheet 8 of 11 .....Sewer Plan & Profile
- Sheet 9 of 11 .....Construction Details
- Sheet 10 of 11 ....Construction Details
- Sheet 11 of 11 ....Construction Details

**EXHIBIT 21.** Plan Set of Grafton Hill in Grafton, MA; prepared by Connorstone Consulting Civil Engineers and Land Surveyors; 11” X 17” and 24” x 36”; black and white; dated September 30, 2015; revised through November 23, 2015; received November 30, 2015; includes the following:

- Sheet 1 of 5 .....Locus Plan / Sheet Index
- Sheet 2 of 5 .....Plan of Land
- Sheet 3 of 5 .....Plan of Land
- Sheet 4 of 5 .....Plan of Land
- Sheet 5 of 5 .....Plan of Land

**EXHIBIT 22.** Mullin Rule Certification signed by Chairman Sargon Hanna; dated and received November 30, 2015; 1 page.

- EXHIBIT 23.** Correspondence from Connorstone Engineering; Re: Grafton Hill – Exceptions Document – Supplemental; dated December 8, 2015; received December 11, 2015; 7 pages.
- EXHIBIT 24.** Public Meeting Sign In Sheet, December 14, 2015; 1 page.
- EXHIBIT 25.** Written Request for Public Hearing Continuance, signed by Attorney Joseph Antonellis representing the Applicant / Owner, received at the December 14, 2015 public hearing; 1 page.
- EXHIBIT 26.** Plan; Street Light Locations, Grafton Hill , North Street, Grafton, MA; prepared by Connorstone Engineering; 8 ½” x 11”, black & white; dated and received December 15, 2015; 1 page.
- EXHIBIT 27.** Plan Set of Grafton Hill in Grafton, MA; prepared by Connorstone Engineering; 11” X 17”; black and white; dated September 30, 2015; revised through December 28, 2015; received December 31, 2015; includes the following:
- Sheet 1 of 5 .....Locus Plan / Sheet Index
  - Sheet 2 of 5 .....Plan of Land
  - Sheet 3 of 5 .....Plan of Land
  - Sheet 4 of 5 .....Plan of Land
  - Sheet 5 of 5 .....Plan of Land
  - Sheet 1 of 11 .....Existing Conditions Plan
  - Sheet 2 of 11 .....Topographic Plan
  - Sheet 3 of 11 .....Topographic Plan
  - Sheet 4 of 11 .....Topographic Plan
  - Sheet 5 of 11 .....Topographic Plan
  - Sheet 6 of 11 .....Roadway Plan & Profile
  - Sheet 7 of 11 .....Roadway Plan & Profile
  - Sheet 8 of 11 .....Sewer Plan & Profile
  - Sheet 9 of 11 .....Construction Details
  - Sheet 10 of 11 ....Construction Details
  - Sheet 11 of 11 ....Construction Details
- EXHIBIT 28.** Correspondence from Graves Engineering; Grafton Hill – Clearview Street, Modified Definitive Subdivision Plan Review; dated and received January 7, 2016; 4 pages.
- EXHIBIT 29.** Plan Set; prepared by Connorstone Engineering; 11”X17”; black and white; dated September 30, revised through January 8, 2016; received January 8, 2016; 11 sheets; includes the following.
- Sheet 1 of 11 .....Existing Conditions Plan
  - Sheet 2 of 11 .....Topographic Plan
  - Sheet 3 of 11 .....Topographic Plan
  - Sheet 4 of 11 .....Topographic Plan
  - Sheet 5 of 11 .....Topographic Plan
  - Sheet 6 of 11 .....Roadway Plan and Profile
  - Sheet 7 of 11 .....Roadway Plan and Profile



- Sheet 8 of 11 .....Sewer Plan and Profile
- Sheet 9 of 11 .....Construction Details
- Sheet 10 of 11 ....Construction Details
- Sheet 11 of 11 ....Construction Details

**EXHIBIT 30.** Plan Set; prepared by Connorstone Engineering; 11”X17”; black and white; dated September 30, revised through January 8, 2016; received January 8, 2016; 5 sheets; includes the following.

- Sheet 1 of 5 .....Locus Plan / Sheet Index
- Sheet 2 of 5 .....Plan of Land
- Sheet 3 of 5 .....Plan of Land
- Sheet 4 of 5 .....Plan of Land
- Sheet 5 of 5 .....Plan of Land

**EXHIBIT 31.** Plan Set; prepared by Connorstone Engineering; 11”X17” and 24” x 36”; black and white; dated September 30, revised through January 8, 2016; received at the January 11, 2016 public hearing; 16 sheets; includes the following.

- Sheet 1 of 5 .....Locus Plan / Sheet Index
- Sheet 2 of 5 .....Plan of Land
- Sheet 3 of 5 .....Plan of Land
- Sheet 4 of 5 .....Plan of Land
- Sheet 5 of 5 .....Plan of Land
- Sheet 1 of 11 .....Existing Conditions Plan
- Sheet 2 of 11 .....Topographic Plan
- Sheet 3 of 11 .....Topographic Plan
- Sheet 4 of 11 .....Topographic Plan
- Sheet 5 of 11 .....Topographic Plan
- Sheet 6 of 11 .....Roadway Plan and Profile
- Sheet 7 of 11 .....Roadway Plan and Profile
- Sheet 8 of 11 .....Sewer Plan and Profile
- Sheet 9 of 11 .....Construction Details
- Sheet 10 of 11 ....Construction Details
- Sheet 11 of 11 ....Construction Details

**EXHIBIT 32.** Public Meeting Sign In Sheet, January 11, 2016; 1 page.

### **III. FINDINGS**

At their meeting of \_\_\_\_\_, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by \_\_\_\_\_, seconded by \_\_\_\_\_) voted   -   in favor to make the following findings:

- F1.) That this application is the Modification of Definitive Subdivision Plan approved by the Grafton Planning Board on July 30, 1953 and recorded at the Worcester District Registry of Deeds, Plan Book 202, Plan 33. See PROJECT BACKGROUND for more information regarding the original approval.
- F2.) That determinations regarding the following findings are based upon the Plans identified in this Decision, as well as the information and material submitted and presented in association with the Application.
- F3.) That determinations regarding the following findings are also predicated upon satisfactory completion of road and other related improvements as approved by the Board and as shown on the Plans in accordance with *Rules and Regulations Governing the Subdivision of Land: Grafton, Massachusetts*, revised through 4/27/09 (hereinafter *Rules and Regulations*), except where modified by this Decision, as well as in accordance with all applicable Federal, State and other Local regulations. See Section I. PROJECT BACKGROUND and Section II. WAIVERS / EXCEPTIONS for more information about the modifications as they relate to the Subdivision Rules & Regulations.
- F4.) That the Applicant requested exceptions the Subdivision *Rules and Regulations*. The Applicant noted that these were not waiver requests as the Approved (endorsed) Plan was endorsed prior to the adoption of Subdivision Rules and Regulations (see EXHIBIT #23 and PROJECT BACKGROUND for more information; See Section IV: WAIVERS / EXCEPTIONS). The Board and the Applicant discussed each item at the December 14, 2015 public hearing and made several determinations impacting the total number of exceptions to be considered at the time of DECISION. The list of requested exceptions and subsequent actions are as follows:
- i. **§3.3.3.20 - Tree Plan** – see Section IV: WAIVERS / EXCEPTIONS.
  - ii. **§3.3.4.1 — Environmental & Community Impact Analysis**; see Section IV: WAIVERS / EXCEPTIONS
  - iii. **§3.3.4.3 — Staking of the Roadway Centerline**; see Section IV: WAIVERS / EXCEPTIONS.
  - iv. **§3.3.4.7 — Traffic Study**; see Section IV: WAIVERS / EXCEPTIONS.
  - v. **§4.1.2.1(b) — Location – General**: To allow proposed grades within the right-of-way to be more than six feet above or existing grade for the construction of the proposed roadways from Station 12+65 to 13+65. See Section IV: WAIVERS / EXCEPTIONS
  - vi. **§4.1.3.5 — Alignment**: At the intersection with North street allow the right of way be cut back with a 30 foot radii on the north side only. See Section IV: WAIVERS / EXCEPTIONS
  - vii. **§4.1.3.6 — Intersection separation**: The existing Clearview Street is less than 600 feet from Old Westborough Road. Imposing the present regulation would require the Applicant to abandon the previously approved plan. The endorsed plan was approved prior to the establishment of the Town's Subdivision Rules & Regulations and is considered a valid plan (see PROJECT BACKGROUND). The approved roadway as it intersects with North Street on the original plan is considered valid and not subject to modification based on the current Subdivision Rules and Regulations.



- viii. **§4.1.3.7 - Roadway centerlines** shall be colinear with the centerline of the roadway right of way. The distance between edge of pavement and edge of right of way shall remain constant. See Section IV: WAIVERS / EXCEPTIONS.
- ix. **§4.1.5.6 — Leveling Areas;** See Section IV: WAIVERS / EXCEPTIONS
- x. **§4.1.6.3 — Dead End Length:** The overall length of Clearview Street will match the endorsed Definitive Subdivision plan which has been deemed valid. The overall length of Clearview is 2020 linear feet. The endorsed plan was approved prior to the establishment of the Town’s Subdivision Rules & Regulations and is considered a valid plan (see PROJECT BACKGROUND). The approved roadway on the original plan is considered valid and not subject to modification based on the Subdivision Rules and Regulations. The Board notes that while it is precluded from addressing this issue given that nature of the legal status of the approved plan, the Board does not generally support such a waiver from which significantly deviates from the current Subdivision Rules and Regulations standards.
- xi. **§4.1.6.5 — Roadway Easement:** To not require an easement from the dead end to adjacent property. The Board noted that the endorsed Definitive Plan was approved prior to the adoption of the Town’s Subdivision Rules & Regulations. This design and access element was not required at that time and cannot be imposed as part of the modification. The approved roadway and lot configuration on the original plan is considered valid and not subject to modification based on the Subdivision Rules and Regulations
- xii. **§4.2 — Curbs and Berms:** To allow the use of bituminous Cape Cod berm throughout the proposed roadway. After discussion with the Board, the Applicant agreed to sloped granite curbing along the roadway throughout the subdivision. Request for consideration as an exception was withdrawn. The Board finds that the plan set was revised to reflect the agreed upon sloped granite (see EXHIBIT #31).
- xiii. **§4.7.6 — Street Lights:** The proposed plan has not included street lighting. After discussion with the Board, the Applicant agreed to include a street lighting plan. Request for consideration as an exception was withdrawn. The Board finds that the plan set was revised to reflect the required number street lights (see EXHIBIT #25 and 31).

At their meeting of [REDACTED], after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by [REDACTED], seconded by [REDACTED]) voted [REDACTED] in favor to make the following findings:

- F5.) That during the public hearing the Board and the Applicant discussed the validity of the original plan approved and endorsed in 1953. It was determined that the existing plan is valid, that the roadway could be built as approved based on the standards of the time it was approved and without adhering to the Subdivision Rules and Regulations. However, this course of action would preclude the acceptance of the roadway and infrastructure by the Town. The Applicant is seeking to modify the approved plan to bring it up to standards which would be acceptable to the Town and make the roadway and infrastructure eligible for Town Meeting acceptance. It was determined by the Applicant’s attorney and Town Counsel that the Planning Board could consider modifications based on the current Subdivision Rules and Regulations. However, the approved roadway and its location

were not subject to modification in terms of location and intersection with North Street. See Sections I. PROJECT BACKGROUND and IV. WAIVERS/ EXCEPTIONS, EXHIBITS #15 and #23)

- F6.) That during the public hearing the Board and the Applicant discussed the type and nature of waiver requests necessary to accommodate the modifications. See Section IV. WAIVERS / EXCEPTIONS.
- F7.) That during the public hearing the Board and the Applicant discussed the irregular lot shapes. Town Counsel notes:

*“.... the subdivision has clearly lost the benefit of any zoning freeze(s) under G.L. c. 40A, and therefore the lots must comply with current zoning requirements, a point that the Applicant concedes. The lots depicted in the 1954 Plan are substantially smaller than the current requirement of a minimum of 40,000 square feet, but with the addition of the land to the south subdivided into "rat tail" formation, the minimum lot area can be achieved, as is depicted in the Modified Definitive Subdivision Plan (hereinafter "the Modified Plan") dated September 30, 2015. Additionally, with a small reduction in the number of lots and some minor reconfigurations, minimum frontage also appears to have been substantially achieved. Although the lot configuration may be visibly disturbing, I have reviewed the Applicant's proposed "Declaration of Restriction," under which the "rat tail" portions of the lots will remain open and undisturbed in perpetuity, with enforcement mechanisms in favor of the Town. Although we are still finalizing its terms, I am generally satisfied with the restrictions and enforcements mechanisms.” (See EXHIBIT #15).*

The Board noted that these areas would have to be restricted in a way to prohibit placement of structures or any kind.

- F8.) That during the public hearing the Board and the Applicant discussed street lights. After review and discussion of the waiver / exceptions list the Applicant included streetlight locations. A total of seven (7) streetlights are proposed based on the requirements of the Subdivision Rules and Regulations. It was noted that the Board of Selectmen would review and approve the street light locations. The Board expressed concern about any proposed changes to the plans made by the Board of Selectmen. It was noted that those changes would be discussed and coordinated with the Board as needed and as reviewed by the public safety officials in conjunction with both Boards.
- F9.) That during the public hearing the Board and the Applicant discussed the sewer easement which connects the gravity fed system down to Carroll Road. The Applicant stated that they had received an easement from one of the two property owners. The second easement from the Grafton and Upton Railroad is forthcoming and expected shortly. The Board noted that all sewer easements must be properly executed, filed with the Worcester District Registry of Deeds and copies submitted to the Planning Board and Sewer Department.
- F10.) That during the public hearing the Board and the Applicant discussed access to adjoining property as required by Section 4.1.6.5 of the Subdivision Rules and Regulations. The intent of this requirement is to create an easement to allow for a through road from the end of a dead end road to adjacent property. The Applicant noted that they had approached the property owner to the east who was not interested in an easement to their property. The property to the north is separated by the railroad line and not necessary given the difficulty of crossing an active rail line. Both properties to the north and

east have frontage on existing public ways and would not be constricted for future development if the easements were not granted. The Board noted that this provision of the Rules and Regulations were developed to ensure that adjacent parcels could be developed and that the easement would enable them to access their land. It was further noted that this provision was not applicable in this case as the roadway was part of an approved plan that was endorsed prior to the adoption of Subdivision Rules and Regulations.

- F11.) That during the public hearing the Board and the Applicant discussed the right of way layout in the loop road area. The Applicant noted that the approved plan shows what was once a traditional road layout in the loop area where the lots are squared off along the roadway thereby creating “square corners” at each turn of the loop road. This is no longer an accepted layout for a right of way as the squared corners make turning maneuverability difficult for large vehicles, specifically emergency vehicles. To modify this road layout for public safety reasons, the plan has been changed to allow for rounded curves on the interior of the loop road. The exterior line of the right of way is still squared off but the interior modification results in additional room for maneuverability. This modification has resulted in some irregular lot frontages that are not collinear with the right of way thereby leaving three triangular spots within the right of way that could be misconstrued as lot area by future property owners. The Board acknowledges that that strict adherence to the Rules and Regulations would create a conflict with other requirements such as lot width and frontage. The Board noted the property bounds for these lots would have to be clearly documented in each deed indicating where the right of way is in relation to each lot that abuts the squared off areas within the right of way.
- F12.) That during the public hearing the Board noted that the Sewer Department submitted comments (see EXHIBIT #8). They requested that the Applicant:
- Eliminate drop sewer manholes (SMH) and change to internal droops and provided a diagram (see EXHIBIT #8). The Board finds that the Applicant complied with this request (see EXHIBIT #31 and EXHIBIT #27).
  - Area between SMH sta. 11+03 and SMH sta. 13+92 must be ductile iron pipe per department standard
  - Provide a copy of the proposed easement agreement between the developer and the Grafton and Upton Railroad and the developer and private property owner on Carroll Road. It should be noted that sewer construction cannot commence until all sewer easement have been signed and recorded.
- F13.) That during the public hearing the Board noted that the Fire Department submitted comments (see EXHIBITS #2 and #9). Concern was raised about the hydrant locations. The Fire Department stated that they did not have an issue with the roadway or the hydrant locations (see EXHIBIT #9). In addition they noted their preference for a 28 foot wide road but not less than 24 feet in width. The plan set shows roadway width varying from 28 feet (from North Street to the intersection of the loop road) and 26 feet around the loop road (see EXHIBIT #31). Additional requirements for lot and house development were included and will be referenced in the Conditions of this Decision.

- F14.) That during the public hearing the Board noted that the Police Department submitted comments (see EXHIBIT #7). They note that final approval of this development should be subject to the proper installation of all necessary traffic control signs and devices.
- F15.) That during the public hearing the Board noted that the School Department submitted comments (see EXHIBIT #5). It is noted that the development would impact the North Grafton Elementary schools, the Middle School and the High School with an additional 72 students.
- F16.) The Board finds that the final peer review report prepared by the Board’s consulting engineer, Jeff Walsh of Graves Engineering, was submitted on January 7, 2016. The Board further notes that there were some items that would require resolution prior to signing the modified plans prior to recording. (See EXHIBIT #27)

#### **IV. WAIVERS / EXCEPTIONS**

The Board notes deliberation on the waiver / exceptions listed below are predicated on several points of fact unique to this Application:

- 1) The Applicant is seeking to modify an Approved (endorsed) subdivision. The endorsed plan was approved in 1953.
- 2) Proposed modifications to roadway construction standards and ancillary plan submittal requirements are those contained in the present day Subdivision Rules and Regulations of the Grafton Planning Board. No regulations were known to have existed in 1953.
- 3) The requested waivers / exceptions are minor in nature and only technical deviations and can be waived by the Planning Board (MGL. c.41 s81R). The Applicant argues that these are to be considered exceptions and not waivers. The pre-existing plan was endorsed based on acceptable roadway construction practices of that era.
- 4) The Applicant seeks the granting of these exceptions with the intent of bringing the design standards of the approved plan into closer compliance with current day standards set forth in the Subdivision Rules & Regulations. The purpose of this effort is to enable the Applicant / Developer to create a project with current infrastructure standards that could be accepted by the Town in the future.
- 5) The Board recognizes that the Applicant is legally entitled to pursue the development of the endorsed plan through an ANR process which would eliminate the need modify the plan as presented in the Application. The Board recognizes that this option would eliminate the opportunity to provide a more "compliant" subdivision based on the Subdivision Rules and Regulations. The Board concurs that a more compliant subdivision is in the best interests of the public. Conversely, it is recognized by the Applicant that pursuing this option would risk Town Meeting acceptance of the infrastructure and roadways. (See I. PROJECT BACKGROUND)

- W1.** At their meeting of [REDACTED], after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, and based upon the findings stated within this Decision, the Grafton Planning Board (motion by \_\_\_\_\_, seconded by \_\_\_\_\_)

\_\_\_\_\_ ) voted \_\_-\_\_ to **GRANT / DENY** the Applicant’s request for a waiver / exception from **§3.3.3.20 - Tree Plan** from the *Rules and Regulations*.

Applicant’s Rationale: This is an unnecessary component where the design layout is predetermined by a previously approved Subdivision in 1953.

The Board **concurs / does not concur** with the Applicant. The Applicant cannot be compelled nor required to change the layout to accommodate a tree plan as specified in the Subdivision Rules & Regulations.

- W2.** At their meeting of \_\_\_\_\_, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, and based upon the findings stated within this Decision, the Grafton Planning Board (motion by \_\_\_\_\_, seconded by \_\_\_\_\_) voted \_\_-\_\_ to **GRANT / DENY** the Applicant’s request for a waiver / exception from **§3.3.4.1 — Environmental & Community Impact Assessment (ECIA)** from the *Rules and Regulations*.

Applicant’s Rationale: It was previously submitted for this land and this 1953 previously approved subdivision already exists.

The Board **concurs / does not concur** with the Applicant. The Applicant cannot be compelled nor required to change submit an ECIA as specified in the Subdivision Rules & Regulations as this requirement was not in effect at the time of approval and endorsement. It is further noted that an ECIA for a larger project encompassing this property was submitted as part of the Major Residential Special Permit (MRSP 2012-11) and Preliminary Plan Approval application.

- W3.** At their meeting of \_\_\_\_\_, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, and based upon the findings stated within this Decision, the Grafton Planning Board (motion by \_\_\_\_\_, seconded by \_\_\_\_\_) voted \_\_-\_\_ to **GRANT / DENY** the Applicant’s request for a waiver / exception from **§3.3.4.3 — Staking of the Roadway Centerline** from the *Rules and Regulations*.

Applicant’s Rationale: The roadway location, which follows the existing access road, is evident on the ground, and there are flags and test pits on the ‘loop’ section.

The Board **concurs / does not concur** with the Applicant. The existing conditions of the site including the extant gravel access drive and flagging in the open area are sufficient to allow for an exception to this requirement.

- W4.** At their meeting of \_\_\_\_\_, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, and based upon the findings stated within this Decision, the Grafton Planning Board (motion by \_\_\_\_\_, seconded by \_\_\_\_\_) voted \_\_-\_\_ to **GRANT / DENY** the Applicant’s request for a waiver / exception from **§3.3.4.7 — Traffic Study** for the following Waiver /Exception from the *Rules and Regulations*.

Applicant’s Rationale: It was previously submitted for this land and this 1953 previously approved subdivision already exists.

The Board **concurs / does not concur** with the Applicant. The Applicant cannot be compelled nor required to change submit a Traffic Study as specified in the Subdivision Rules &



Regulations as this requirement was not in effect at the time of approval and endorsement. It is further noted that an Traffic Study for a larger project encompassing this property was submitted as part of the Major Residential Special Permit (MRSP 2013-2) and Preliminary Plan Approval application. Traffic impacts on North Street were assessed that time and not found to be excessive in nature. The current number of lots in this Application is significantly smaller than the number of lots presented in previous applications. The Board finds that the information presented in the recent traffic study adequately addresses potential traffic impacts.

- W5.** At their meeting of \_\_\_\_\_, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, and based upon the findings stated within this Decision, the Grafton Planning Board (motion by \_\_\_\_\_, seconded by \_\_\_\_\_) voted \_\_\_\_-\_\_\_\_ to **GRANT / DENY** the Applicant's request for the following waiver /exception from the *Rules and Regulations*, as specified below:

**§4.1.2.1(b) — Location – General:** To allow proposed grades within the right-of-way to be more than six feet above or existing grade for the construction of the proposed roadways from Station 12+65 to 13+65.

Applicant's Rationale: The existing layout of the 1953 approved plan places the roadway in an area where the topography has a sharp drop. In order to meet the current day forward sight distances there needs to be fill above 6 feet for a distance of 100 feet (station 12+65-13+65).

The Board **concurs / does not concur** with the Applicant. In reviewing the topography and location where the fill is requested, it was determined that the requested exception was necessary in the interests of the public safety.

- W6.** At their meeting of \_\_\_\_\_, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, and based upon the findings stated within this Decision, the Grafton Planning Board (motion by \_\_\_\_\_, seconded by \_\_\_\_\_) voted \_\_\_\_-\_\_\_\_ to **GRANT / DENY** the Applicant's request for the following waiver /exception from the *Rules and Regulations*, as specified below:

**§4.1.3.5 — Alignment:** At the intersection with North street allow the right of way be cut back with a 30 foot radii on the north side only.

Applicant's Rationale: As previously approved the south side of the existing right of way does not allow for the property line to be cut back at a 30 foot radius. The actual "curb," that portion of the road pavement, does provide for a 30 foot curb radii. The 30 foot radii provides proper turning radii for emergency and other larger wheel base vehicles.

The Board **concurs / does not concur** with the Applicant. The Applicant demonstrated to the satisfaction of the Board that the existing conditions which follow the approved plan can not be altered to meet the current standard without impacting or encroaching upon the abutter at 81 North Street. The Applicant has demonstrated to the Board that allowing this exception would not hinder the turning radius of emergency vehicles needing to gain access to the site.

- W7.** At their meeting of \_\_\_\_\_, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, and based upon the findings stated within this Decision, the Grafton Planning Board (motion by \_\_\_\_\_, seconded by \_\_\_\_\_)



\_\_\_\_\_ ) voted \_\_\_ - \_\_\_ to **GRANT / DENY** the Applicant’s request for the following Waiver /Exception from the *Rules and Regulations*, as specified below:

**§4.1.3.7 - Roadway centerlines** shall be colinear with the centerline of the roadway right of way. The distance between edge of pavement and edge of right of way shall remain constant.

Applicant’s Rationale: To the extent the interior of the roadway (now lot 23) has been modified it has been to provide the requested emergency vehicle turning radii and the 30 foot curb return radii. As to the outside corners of concern to the Board there can be a ‘funky’ layout to meet this colinear requirement by filling in those fillets with pavement structure to be colinear. This does not serve the purposes of the Subdivision Control law and the Grafton Rules and Regulations. Rounding the corners eliminate a lot due to the “width” requirement. Lots must have a width equal to the frontage at the setback line.

The Board **concurs / does not concur** with the Applicant. The need to balance public safety by the allowing turning radii to accommodate emergency vehicles outweighs the requirements of this section despite the challenges presented with an irregular right of way interface with some lots. (See FINDING #F11).

- W8.** At their meeting of \_\_\_\_\_, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, and based upon the findings stated within this Decision, the Grafton Planning Board (motion by \_\_\_\_\_, seconded by \_\_\_\_\_) voted \_\_\_ - \_\_\_ to **GRANT / DENY** the Applicant’s request for a waiver / exception from **§4.1.5.6 — Leveling Area** from the *Rules and Regulations*.

Applicant’s Rationale: This requirement is mitigated by the installation of a STOP sign/line. The minor leg has been designed with a stop sign and a leveling area has been designed to provide the required safety for an intersection. Traffic approaching the ‘thru’ street does not indiscriminately merge without stopping.

The Board **concurs / does not concur** with the Applicant. The Board expressed concern about the design deviation noting potential safety conflicts particularly in icy conditions. The Applicant noted that compliance with this design standard would require a significant redesign of the grading plan which would result in major earthwork and land disturbance. Given the site topography and the need to minimize land disturbance, the Board finds that the Applicant’s rationale for this exception **is / is not warranted**.

## **V. DECISION and CONDITIONS**

At their meeting of \_\_\_\_\_ after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Qualey, seconded by Mr. Walsh) voted \_\_\_ - \_\_\_ (roll call vote: Scully- AYE / NAY; R. Hassinger – AYE / NAY; Hanna – AYE . NAY; Robbins – AYE / NAY; L. Hassinger- AYE / NAY) to **APPROVE / DENY** the Application for Approval of a Definitive Subdivision Plan with the following conditions:

### **Standard Conditions**

- C1. This Approval shall not be construed as approving the buildability of any lots shown on the Plans. All applicable Federal, State or other Local permits/approvals must be obtained for each lot prior to construction on said lot.
- C2. This Approval shall not be construed as final approval of any on- or off-site improvements or work (such as water, sewer, drainage, or other utilities installation) associated with this project and shown on the Plans. All applicable Federal, State and Local approvals/permits shall be obtained by the Applicant prior to the construction of any portion of the development or off-site improvements that warrant such approvals/permits. All applicable requirements of the Grafton Water District, Grafton Board of Sewer Commissioners/Sewer Department, Grafton Police Department, Grafton Department of Public Works, and all other applicable utilities, are hereby incorporated by reference as a requirement of this Decision.
- C3. Any additional modification to the approved Plans shall require, prior to implementing such change, a determination from the Planning Board as to whether the proposed change is substantially different than presented in the materials and information used in making this Decision. The Planning Board reserves the right to solicit comments from other Town boards, departments and committees, as well as its consulting engineer, in making determinations regarding such changes. The Planning Board may, upon its determination, require a modification of this Decision if it finds that the proposed changes are substantial in nature and of public concern, and substantially alter the plans and information used in making this Decision. Any Modification of this Decision shall be made pursuant to Section 3.3 of the *Subdivision Rules and Regulations*.
- C4. The Planning Board reserves the right, pursuant to the *Subdivision Rules and Regulations* to utilize the services of a professional engineer in reviewing any materials required to be submitted as conditions of this Decision, and conducting any inspections or other work associated with the construction of the subdivision. In accordance with the applicable sections of the *Subdivision Rules and Regulations* and the ZBL, any fees or expenses associated with such reviews and inspections shall be the responsibility of the Applicant. Such inspections or reviews will not be conducted if a zero or negative balance exists in any account established by the Planning Board for the purposes stated in this Condition.
- C5. All site development and construction shall be performed in accordance with the approved Plans and the *Rules and Regulations Governing the Subdivision of Land: Grafton, Massachusetts* (revised through 4/27/09), as well as with all applicable Federal, State and Town laws, ordinances and regulations. In the event of a discrepancy between the Plans and the *Rules and Regulations*, and absent clarification or approval of such discrepancy stated within the Findings or Conditions of this Decision, the requirements of the *Rules and Regulations* shall apply. All required permits and approvals shall be secured by the Applicant at the appropriate stage of construction and copies of all pertinent documents regarding said permits and approvals shall be filed with the Planning Board in a timely manner.
- C6. Construction of the improvements shown on the Plans approved as part of this Decision is subject to approval by the Grafton Conservation Commission. Any Order of Conditions and/or permits issued by the Conservation Commission with respect to this Application are hereby incorporated by reference and shall constitute a condition of this Decision. If such Order of Conditions and/or permits require substantial modifications to any of the plans approved by the Planning Board, the Board may, upon its determination, require a modification of this Decision if it finds that the proposed changes are

substantial in nature and of public concern, and substantially alter the plans and information used in making this Decision.

- C7. All grading and construction shall be performed in accordance with the Plan, as well as all applicable Federal, State and Local regulations, and shall be accomplished so as not to discharge any non-permitted pollutants or siltation into waterways during construction or after completion of the subdivision.
- C8. The Applicant, their successors and assigns, will not sell any lot in the subdivision or erect or place any permanent building on any such lot until the construction of ways and municipal services necessary to adequately serve such lot has been completed in accordance with the approved Plans and the *Rules and Regulations*. In the event of a discrepancy between the Plans and the *Rules and Regulations*, and absent clarification or approval of such discrepancy stated within the Findings or Conditions of this Decision, the requirements of the *Rules and Regulations* shall apply.
- C9. This Modification of Definitive Plan Decision shall be recorded in the Worcester District Registry of Deeds (WDRD) prior to any ongoing Town review and / or peer review associated with conditions set forth in this Decision. The Applicant shall submit evidence to the Planning Board that this Decision has been recorded at the WDRD, including a copy of such recording bearing the WDRD Book and Page Number and/or Instrument Number. Any such Plan(s) submitted to the Planning Board for approval shall contain reference to this Decision, as well as other related approvals, indicating that such plans are prepared pursuant to said Decision(s)/Approval(s) and shall include WDRD recording information, including Book and Page numbers. By recording this Definitive Plan Approval Decision in the Worcester Registry of Deeds, the Applicant agrees to and accepts the conditions set forth in this Special Permit Decision, and which acceptance shall bind the Applicant and its successors and assigns.
- C10. Any inability or failure or refusal by the Applicant to comply with the Conditions of this Decision, when notified of failure of compliance, shall be grounds for the immediate denial of building, construction or occupancy permits with respect to this project.

**Conditions to be satisfied prior to Endorsement of the Modified Plan**

- C11. The Conditions set forth in this Decision shall be inscribed on a sheet of the Plans suitable for recording at the Worcester Registry of Deeds (WDRD). Such sheets shall be so recorded as part of the Modified Definitive Plan. Reference to these Conditions, as well as the WDRD Book and Page number of the recorded Decision and the corresponding sheet numbers shall also be inscribed on any sheet(s) that do not contain the Conditions of Approval.
- C12. The Approved Modified Definitive Plan, Sewer Easements, Declaration of Deed Restrictions and Restrictive Covenant shall be recorded at the Worcester District Registry of Deeds. The Applicant / Developer shall notify the Planning Board within ten (10) days of the recording of all pages of the approved documents and will notify the Board in writing, presenting evidence of the recording.
- C13. Revise plans to address comments received from the Sewer Department (EXHIBIT #8) which state: Area between SMH sta. 11+03 and SMH sta. 13+92 must be ductile iron pipe per department standard.
- C14. Revise plans to address comments received from Graves Engineering dated January 7, 2016 (EXHIBIT #27): Revise Sheet 4 of 5 of the Land Plan to show property ownership on the abutting property located on the east side of North Street.

**Conditions to be satisfied prior to the Start of Any Construction Activity**

- C15. Prior to the commencement of work, the Planning Board shall be provided with the following:
- a. Five (5) full size, 24” x 36”, recorded plan sets, one of which shall be sent directly to the Town’s peer review consulting engineer. The recorded plan set shall include the information required pursuant to Condition #C11 through #C14.
  - b. An electronic copy of the recorded plan set. The electronic copy shall be in a “PDF” compatible format.
- C16. The Restrictive Covenant shall be reviewed, approved and signed by the Planning Board. The signed document shall be recorded at the Worcester District Registry of Deeds. The Applicant / Developer shall notify the Planning Board within ten (10) days of the recording of all pages of the approved documents and will notify the Board in writing, presenting evidence of the recording.
- C17. Prior to commencing any work within North Street, a public way, all required permits / approvals shall be obtained from the Grafton Department of Public Works.
- C18. In accordance with the National Pollutant Discharge Elimination System (NPDES) Phase II requirements, a Stormwater Pollution Prevention Plan shall be maintained at all times on the Site by the Applicant / Developer. A copy of this document shall be forwarded to the Planning Board, Conservation Commission and Department of Public Works prior to commencing any construction activity.

**Conditions to be satisfied During Construction**

- C19. Construction and installation of the roadway and municipal services shall only occur Monday through Saturday between the hours of 7:00 a.m. and 5:00 p.m., and there shall be no construction activity on State or Federal holidays.
- C20. All site construction, development and improvements shall be inspected at the appropriate stage(s) of construction by the Planning Board or its agent upon request made by the Applicant to the Planning Board or its agent, in accordance with any policies for such requests.
- C21. The Town reserves the right to require reasonable additional construction techniques, for either on-site or off-site work, in response to actual field conditions, effects of construction methods and as the situation warrants. This may include, without limitation, earth work, purchase and installation of materials, infrastructure, etc., and lot drainage issues.
- C22. All construction vehicles and vehicles of all workers are to be parked on site. Parking of construction vehicles on North Street is specifically prohibited, except during the period of the initial clearing of the property.
- C23. The Applicant shall take all necessary measures to minimize dust from rising and blowing across the site and onto roads and adjacent properties. Any sediment or dirt tracked onto public ways shall be swept prior to the end of the construction day.

**Conditions to be met prior to Release of Lots or Reduction of Surety**

- C24. Deed restrictions for “no disturb, no cut, no build” areas for each lot shall be submitted to the Planning Board or its agent for approval. Draft deed language shall be submitted for approval to the Planning

Board or its Agent. Final approval of draft deed restriction language shall be granted via correspondence from the Planning Board or its agent. The Applicant / Developer shall be responsible for recording the approved deed restrictions at the Worcester District Registry of Deeds (WDRD) and provide evidence to the Planning Board, including a copy of such recording bearing the WDRD Book and Page Number and/or Instrument Number. All lot release requests submitted to the Planning Board will include reference to the deed restrictions on said lots.

- C25. All stormwater management facilities and associated structures, including pipe, loaming, and seeding, shall be completed, and stormwater runoff suitably controlled, to the satisfaction of the Planning Board or its Agent prior to the release of any lot within that portion of the subdivision.

**Conditions to be met prior to the Issuance of either a Temporary or Permanent Occupancy Permit**

- C26. The Building Inspector, in consultation with the Town Planner, shall require proof of a valid and duly recorded Lot Release for said lot in question.
- C27. Inspection of each lot shall be made by the Fire Department to ensure compliance with safety requirements such as visibility of street numbers day and night, access to the perimeter for firefighting purposes, entrances shall be void of all obstacles to a minimum of 30 feet (light poles, trees, shrubs, stone walls, gates, posts, mailboxes, etc.) and any other requirement set forth by the Fire Department to ensure adequate safety access.

**Conditions to be met prior to Request for Determination of Completeness**

- C28. Prior to acceptance of the way and improvements by the Town, a determination shall be made by the Planning Board, through its designated consulting engineer, as to whether the detention basins, as well as all other improvements, are constructed and operate as designed on the approved plan(s). If a negative determination is made, the Applicant shall, at their own expense, remedy any and all deficiencies to the satisfaction of the Board.
- C29. A final inspection by the Police Department and Department of Public Works will be conducted to ensure that all public safety signage and roadway markings have met the required standards. The Town reserves the right to require additional public safety controls in the event that site conditions may warrant. The Applicant / Developer shall be responsible to submitting a final approval from both the Police Department and the Department of Public Works that the all signs and other public safety controls have been identified and installed to their satisfaction. This Condition does not nullify or negate the requirements set forth in Section 3.2.11.2.d (Written Evidence of Compliance from Superintendent of Streets) of the Subdivision Rules and Regulations during the Determination of Completeness Review.

**VI. RECORD OF VOTE**

Constituting a majority of the Planning Board, the following members voted    -    to **APPROVE / DENY** the Applicant's Modification of Definitive Plan Application with Conditions based on the information received at the public hearing and the aforementioned findings.

Sargon Hanna, Chairman

AYE / NAY

Linda Hassinger, Member

AYE / NAY



Michael Scully, Vice Chairman      AYE / NAY

David Robbins, Member      AYE / NAY

Robert Hassinger, Clerk      AYE / NAY

**DATE OF FILING OF DECISION: BY ORDER OF THE BOARD**

\_\_\_\_\_  
Joseph Laydon, Town Planner

\_\_\_\_\_  
Date

cc: Applicant / Owner

- Attorney Joseph Antonellis
- Connorstone Engineering
- Graves Engineering
- Assistant Town Engineer
- Building Inspector
- Conservation Commission
- Board of Assessors

**To Whom It May Concern:** This is to certify that the 20 day appeal period has passed and there have been no appeals made to this office.

\_\_\_\_\_  
Donna Girouard, Town Clerk

\_\_\_\_\_  
Date